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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,010	07/23/2003	Hiroshi Hirayama	16869P-079200US	9954

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EXAMINER

PATEL, GAUTAM

ART UNIT	PAPER NUMBER
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2627

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/626,010	Applicant(s) HIRAYAMA, HIROSHI	
	Examiner Gautam R. Patel	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,8,11,12,15 and 18 is/are rejected.
- 7) ☒ Claim(s) 3,4,6,7,9,10,13,14,16,17,19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/17/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 are pending for the examination.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 U.S.C. § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5, 8, 11-12, 15 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Tetsushi JPO Publication 11-045514 (hereafter Tetsushi).

As to claim 1, Tetsushi discloses the invention as claimed, a disk recording apparatus [see Figs. 1 and 2-4] including a first timing detector, a second timing detector, a phase difference detector and a controller configured, comprising:

a first timing [[fig. 1, unit 19] detector having a first timing synchronized with a wobble reproduction signal of the rewritable optical disk;

a second timing detector [fig. 1, unit 27] having a second timing synchronized with a track reproduction signal of the rewritable optical disk;

a phase difference detector [fig. 1, unit 26] configured to detect a phase difference between the first timing and the second timing; and

a controller [fig. 1, unit 23] configured to determine a recording area based on the detected phase difference [paragraphs 36-44 & 51-55 also fig. 1].

4. The aforementioned claim 2, recites the following elements, inter alia, disclosed in Tetsushi:

the controller is configured to control writing of data on the determined recording area of the optical disk [paragraphs 36-44 & 51-55 also fig. 1].

Art Unit: 2627

5. The aforementioned claim 5, recites the following elements, inter alia, disclosed in Tetsushi:

if the controller determines that the recording area for writing the data is a preset reserved area or an empty area on the optical disk, the controller is configured to control the writing of the data using the first timing synchronized with the wobble reproduction signal of the rewritable optical disk [paragraphs 36-44 & 51-55 also fig. 1].

NOTE: Controller inherently records on an empty area so as not to destroy data that has already been written.

6. As to claims 8, 11 and 18, they are claims corresponding to claim 1 and they are therefore rejected for the similar reasons set forth in the rejection of claim 1, above.

7. As to claim 12 it is claim corresponding to claim 2 and it is therefore rejected for the similar reasons set forth in the rejection of claim 2, above.

8. As to claim 15 it is claim corresponding to claim 5 and it is therefore rejected for the similar reasons set forth in the rejection of claim 5, above.

ALTERNATE REJECTION

Claim Rejections - 35 U.S.C. § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5, 8, 11-12, 15 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Bokui US patent 6,674,330 (hereafter Bokui).

As to claim 1, Bokui discloses the invention as claimed, a disk recording apparatus [see Figs. 1 and 2-4] including a first timing detector, a second timing detector, a phase difference detector and a controller configured, comprising:

a first timing [fig. 1, signal Wobble signal] detector having a first timing synchronized with a wobble reproduction signal of the rewritable optical disk;

a second timing detector [fig. 1, signal Pre-pit signal] having a second timing synchronized with a track reproduction signal of the rewritable optical disk;

a phase difference detector [fig. 1, unit 5] configured to detect a phase difference between the first timing and the second timing; and

a controller [inherently present] configured to determine a recording area based on the detected phase difference [col. 2, line 60 to col. 3, line 63; & col. 4, lines 42-51].

10. The aforementioned claim 2, recites the following elements, inter alia, disclosed in Tetsushi:

the controller is configured to control writing of data on the determined recording area of the optical disk [col. 2, line 60 to col. 3, line 63; & col. 4, lines 42-51].

11. The aforementioned claim 5, recites the following elements, inter alia, disclosed in Tetsushi:

if the controller determines that the recording area for writing the data is a preset reserved area or an empty area on the optical disk, the controller is configured to control the writing of the data using the first timing synchronized with the wobble reproduction signal of the rewritable optical disk [col. 2, line 60 to col. 3, line 63; & col. 4, lines 42-51].

NOTE: Controller inherently records on an empty area so as not to destroy data that has already been written.

12. As to claims 8, 11 and 18, they are claims corresponding to claim 1 and they are therefore rejected for the similar reasons set forth in the rejection of claim 1, above.

Art Unit: 2627

13. As to claim 12 it is claim corresponding to claim 2 and it is therefore rejected for the similar reasons set forth in the rejection of claim 2, above.

14. As to claim 15 it is claim corresponding to claim 5 and it is therefore rejected for the similar reasons set forth in the rejection of claim 5, above.

Allowable Subject Matter

15. Claims 3-4, 6-7, 9-10, 13-14, 16-17 and 19-20 are objected as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

NOTE: Claims 3-4, 6-7, 9-10, 13-14, 16-17 and 19-20 are allowable over the prior art of record since the cited references taken individually or in combination fails to particularly disclose a disk recording apparatus for rewritable disk which includes first second timing detectors, phase comparator a controller which includes “details of permissible cycle errors value wT and also; an amount of error data relative to the track reproduction signal”. It is noted that the closest prior art, Tetsushi [JPO11-045514] & Bokui (US 6,674,330) shows a similar apparatus which discloses all of the above elements including first and second timing detectors an phase detector. However Tetsushi and Bokui fails to disclose details as described above with respect to cycle error value and an amount of error relative to rack

NOTE: It should also be noted that US patent 6,687,204 also clearly discloses reproduction signal [fig.1, unit 12], and wobble signal [fig. 1, unit 13], but fails to disclose details just described above.

Other prior art cited

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a) Miyanabe et al. (US. Patent 6,687,204) “Crosstalk removal apparatus”.
- b) Hogan et al. (US. patent 6947364).
- c) Van Vlerken (US. patent 6538982).

Art Unit: 2627

Contact information

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is 571-272-7625. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Dwayne Bost, who can be reached on (571) 272-7023.

Any inquiry of a general nature or relating to the status of this application should be directed to the Electronic Business Center whose telephone number is 866-217-9197 or the USPTO contact Center telephone number is (800) PTO-9199.



Gautam R. Patel
Primary Examiner
Group Art Unit 2627

June 24, 2006